

STATE OF MICHIGAN  
COURT OF APPEALS

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ERIN AUSTIN,

Petitioner-Appellant,

v

TOWNSHIP OF LIBERTY,

Respondent-Appellee.

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UNPUBLISHED

May 17, 2011

No. 296394

Michigan Tax Tribunal

LC No. 00-346201

Before: DONOFRIO, P.J., and BORRELLO and BECKERING, JJ.

PER CURIAM.

Petitioner Erin Austin appeals as of right a judgment of the Michigan Tax Tribunal establishing the assessed value of her property for the tax years 2008 and 2009. We affirm.

I

Petitioner obtained her property in 2007, when her parents transferred it to her by quit claim deed. The property is comprised of two adjacent parcels, and the original residence on the property was built in 1998. As a result of the property transfer, the taxable value of the property was uncapped, and the Liberty Township Tax Board increased the taxable value pursuant to MCL 211.27a. Petitioner challenged the tax increase before the Board of Review, and then appealed the board's decision in the small claims division of the Tax Tribunal.

II

On appeal, petitioner challenges the Tax Tribunal's determination of the true cash value, state equalized value, and taxable value of her property. "Absent fraud, this Court's review of a Tax Tribunal decision is limited to determining whether the tribunal made an error of law or adopted a wrong legal principle." *Georgetown Place Coop v City of Taylor*, 226 Mich App 33, 43; 572 NW2d 232 (1997). The factual findings of the tribunal are upheld unless they are not supported by competent, material, and substantial evidence. *Id.*

The taxpayer bears the burden of proof in establishing the true cash value of property. *Id.*, citing MCL 205.737(3). True cash value is defined by MCL 211.27(1), which provides that "'true cash value' means the usual selling price at the place where the property to which the term is applied is at the time of assessment, being the price that could be obtained for the property at private sale . . . ." In determining the true cash value, the assessor shall consider, among other

things, the advantages and disadvantages of location, quality of soil, zoning, and existing use. MCL 211.27(1). The Tax Tribunal's goal "is to determine the most accurate valuation under the individual circumstances of the case;" however, it need not consider "every possible factor affecting value." *Great Lakes Div of Nat'l Steel Corp v City of Ecorse*, 227 Mich App 379, 399; 576 NW2d 667 (1998).

In this case, the Tax Tribunal found that petitioner failed to meet her burden of proof in establishing the property's true cash value because she failed to provide sufficient documentary evidence to support her contention that the subject assessment was unlawfully excessive. Petitioner presented the tribunal with market evidence consisting of Standard & Poor's and Case-Shiller home prices indexes and newspaper articles on the economy and the decline in home values generally. Petitioner did not present any evidence regarding what similar properties were sold for on the market or any independent market data to offer in support of her value contentions.

On the other hand, respondent Township of Liberty applied a sales-comparison valuation approach. The tribunal found, after independent review and analysis, that the sales-comparison approach yielded the most accurate valuation of the property. The sales-comparison approach has been recognized as the "most direct, the best understood, and the only [approach] directly reflecting the balance of supply and demand for a whole property in actual market place trading." *Edward Rose Bldg Co v Independence Twp*, 436 Mich 620, 636-637; 462 NW2d 325 (1990) (citations and emphasis omitted). Based on the evidence submitted, the tribunal's finding that petitioner's valuation method was not reliable regarding the usual price for which the subject property would sell does not constitute an error of law or wrong legal principle. See *Meadowlanes Ltd Dividend Housing Ass'n v City of Holland*, 437 Mich 473, 482-483, 485; 473 NW2d 636 (1991).

Additionally, the Tax Tribunal concluded that the true cash value of the property calculated by respondent was correct, and respondent presented substantial evidence in support of that conclusion. Because the true cash value was accurately calculated and taxable value is based on true cash value, petitioner has failed to show any error regarding the assessment of her property. See MCL 211.27a (using state equalized value to determine taxable value); MCL 211.34 (using true cash value to determine equalized value). Further, there is no evidence that the tribunal committed an error of law or employed a wrong legal principle. See *Georgetown Place Coop*, 226 Mich App at 43. Thus, we affirm the tribunal's final opinion and judgment.

### III

Petitioner also raises several constitutional claims that were not addressed by the Tax Tribunal. This Court may review the merits of petitioner's unpreserved constitutional claims because the Tax Tribunal does not have authority to consider constitutional questions. See *Electronic Data Sys Corp v Twp of Flint*, 253 Mich App 538, 549, 551; 656 NW2d 215 (2002) (addressing the merits of the petitioner's due process and equal protection claims despite the fact that they were raised for the first time on appeal because the Tax Tribunal does not have the power to determine constitutional questions). Constitutional questions are questions of law and are reviewed de novo. *Blackburne & Brown Mtg Co v Ziomek*, 264 Mich App 615, 620; 692 NW2d 388 (2004).

In this case, petitioner challenges the assessment of her property based on equal protection grounds. Both the United States Constitution, US Const, Am XIV, and the Michigan Constitution, Const 1963, art 1, § 2, guarantee equal protection under the law and have been interpreted to require that “persons similarly situated be treated the same.” *Citizens for Uniform Taxation v Northport Pub Sch Dist*, 239 Mich App 284, 289; 608 NW2d 480 (2000). Legislation challenged on equal protection grounds is afforded a presumption of constitutionality, and this presumption “is especially strong where tax legislation is concerned.” *Id.* at 290. Because petitioner’s challenge does not involve a fundamental right or a suspect classification, the rational-basis standard of review applies. See *id.* State action is upheld under the rational basis standard “if it furthers a legitimate governmental interest and if the challenged classification is rationally related to achieving that interest.” *Id.*, citing *Vargo v Sauer*, 457 Mich 49, 60; 576 NW2d 656 (1998).

Petitioner specifically argues that equal protection is offended by the fact that the taxable value of property can increase when property values in general are decreasing; the taxpayer bears the burden of proving the property’s true cash value, see MCL 205.737(3); current laws do not require review of “historical housing value trends;” a property owner cannot prove that the taxable value of his or her property is wrong without selling the property; and a property owner may sell his or her property for less than the assessed taxable value without getting a tax refund. Petitioner failed to sufficiently brief the merits of the alleged constitutional errors because she failed to cite any relevant authority; thus, the issues are deemed abandoned on appeal. See *Etefia v Credit Technologies, Inc.*, 245 Mich App 466, 471; 628 NW2d 577 (2001). Nevertheless, none of petitioner’s alleged equal protection violations have any merit.

When a challenge is brought regarding the validity of state legislation or other official action, the threshold inquiry is whether the challenger was treated differently from others who are similarly situated. *Shepherd Montessori Ctr Milan v Ann Arbor Charter Twp*, 486 Mich 311, 318; 783 NW2d 695 (2010). In this case, petitioner has not established that she was treated differently from any similarly situated property owner. The statutes in question treat all taxpayers alike. MCL 205.737(3) provides that the “petitioner has the burden of proof in establishing the true cash value of the property.” This burden of proof does not vary depending on the individual petitioner. The definition of true cash value is set forth in MCL 211.27(1), which defines it as the “usual selling price” and instructs assessors to consider certain aspects of the property in determining the true cash value. The definition and the instructions do not vary depending on the person who owns the property or any other classification. MCL 205.737(1) provides that the “tribunal shall determine a property’s taxable value pursuant to section 27a of the general property tax act.” MCL 211.27a sets forth the formula governing increases in a property’s taxable value. This formula applies equally to all property owners, and the method for determining taxable value does not vary depending on the individual or any other classification. Therefore, because petitioner has not met the threshold inquiry that she was treated differently than a similarly situated person, we need not determine whether the statute furthers a legitimate governmental interest and is rationally related to achieving that interest. See *Shepherd Montessori Center Milan*, 486 Mich at 323; *Citizens for Uniform Taxation*, 239 Mich App at 290. Regardless, there is a rational basis for the burden placed on the taxpayer and the collection of property taxes in general. The state has a legitimate interest in collecting taxes, and ensuring accurate tax valuation of property is rationally related to that interest. See generally

*American Amusement Co, Inc v Dep't of Treasury*, 91 Mich App 573, 576-577; 283 NW2d 803 (1979).

Petitioner is not entitled to relief on any of the alleged equal protection violations.

#### IV

Finally, petitioner raises an argument regarding the taxable value assigned to her property in 1998. This issue was not properly presented for appeal because it was not included in petitioner's statement of the issues and is therefore waived. See *English v Blue Cross Blue Shield of Mich*, 263 Mich App 449, 459; 688 NW2d 523 (2004). However, even if we addressed this issue, it has no merit. Petitioner argues that MCL 206.117 mandates that all property be valued at its original cost. However, MCL 206.117 is part of the Income Tax Act, MCL 206.1 *et seq.*, and has no bearing on the taxable value of residential property.

Affirmed.

/s/ Pat M. Donofrio

/s/ Stephen L. Borrello

/s/ Jane M. Beckering